

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA, :

Plaintiff, :

Case No. 3:98-CR-081
3:12-CV-183

vs. :

JUDGE WALTER HERBERT RICE

KEITH DEWITT, SR., :

Defendant :

DECISION AND ENTRY ADOPTING UNITED STATES MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATIONS (DOC. #459) AND
SUPPLEMENTAL REPORT AND RECOMMENDATIONS (DOC. #463) IN
THEIR ENTIRETY; OVERRULING DEFENDANT'S OBJECTIONS
THERE TO (DOCS. ##460, 467); OVERRULING WITHOUT PREJUDICE
DEFENDANT'S MOTION TO VACATE SENTENCE PURSUANT TO 28
U.S.C. § 2255 (DOC. #458); DENYING ANTICIPATED REQUEST FOR
CERTIFICATE OF APPEALABILITY AND MOTION FOR LEAVE TO
PROCEED *IN FORMA PAUPERIS*; TERMINATION ENTRY

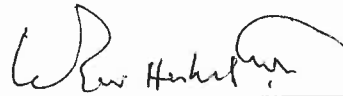
Based on the reasoning and citations of authority set forth by United States Magistrate Judge Michael R. Merz, in his Report and Recommendations, filed June 15, 2012 (Doc. #459), and his Supplemental Report and Recommendations, filed July 5, 2012 (Doc. #463), as well as upon a thorough *de novo* review of this Court's file and the applicable law, this Court adopts said judicial filings in their entirety, and overrules Defendant's objections thereto (Docs. ##460, 467).

Defendant's Motion to Vacate Sentence Pursuant to 28 U.S.C. § 2255 (Doc. #458) is overruled without prejudice to renewal, if the Court of Appeals certifies it under 28 U.S.C. § 2255(h). The Court's determination that this is a second or successive

motion would not be debatable among reasonable jurists, and any appeal on that question would be objectively frivolous. Accordingly, Defendant is denied a certificate of appealability and denied leave to appeal *in forma pauperis* on that issue.

The captioned case is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

Date: September 28, 2012



WALTER HERBERT RICE
UNITED STATES DISTRICT JUDGE